

D-4

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 13, 2007

07od-017

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

OAHU

After-the-Fact Grant of Perpetual, Non-Exclusive Easement to the Board of Water Supply (BWS), City and County of Honolulu for Water Transmission Pipeline and Access Purposes and a Management and Construction Right-of-Entry, at the Ala Wai Golf Course along Kapahulu Avenue, Waikiki, Honolulu, Oahu Tax Map Key: 2-7-036:002.

APPLICANT:

Board of Water Supply, City and County of Honolulu.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Waikiki situated at Honolulu, Oahu, identified by Tax Map Key: 2-7-036:002 (see Exhibit A).

AREA:

12,703 square feet more or less.

ZONING:

State Land Use District: Conservation  
City & County of Hon. LUO: Preservation

LAND TITLE STATUS:

Section 5(a) lands of the Hawaii Admission Act.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES \_\_\_\_ NO  
  X

CURRENT USE STATUS:

Governor's Executive Order No. 3885 to the City and County of Honolulu for Golf Course and Park Purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove water transmission pipeline over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on September 23, 2002 with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

With the approval of the City and County of Honolulu, Department of Enterprise Services, who manages the Ala Wai Golf Course under EO 3885, the BWS began construction of their 24-inch water pipeline realignment portion of their Diamond Head Water System Improvements project. Construction was halted when a Hawaiian Electric Co. easement was encountered and HECO advised them that the BWS would need an easement from the State (see Exhibit B). HECO did provide a written response dated January 29, 2007 agreeing to allow the BWS to cross HECO's easement (see Exhibit C).

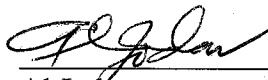
The Department of Hawaiian Home Lands (DHHL) and Office of Hawaiian Affairs (OHA) were requested to comment. DHHL returned the memorandum indicating they had "no comments". The Office of Conservation and Coastal Lands had participated in the above-cited Environmental Assessment project.

RECOMMENDATION:

That the Board:

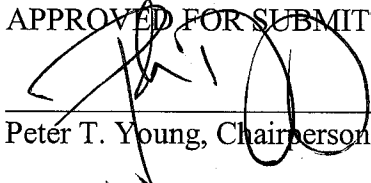
1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to BWS covering the subject area for water transmission pipeline purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize immediate management and construction right-of-entry to BWS and their consultants, contractors and/or persons acting for or on their behalf in the exercise of this right-of-entry onto portions of government lands for the purposes explained above, subject to the following terms and conditions:
  - A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time;
  - B. Cancellation of the management and construction right-of-entry when the perpetual, non-exclusive easement document is executed; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



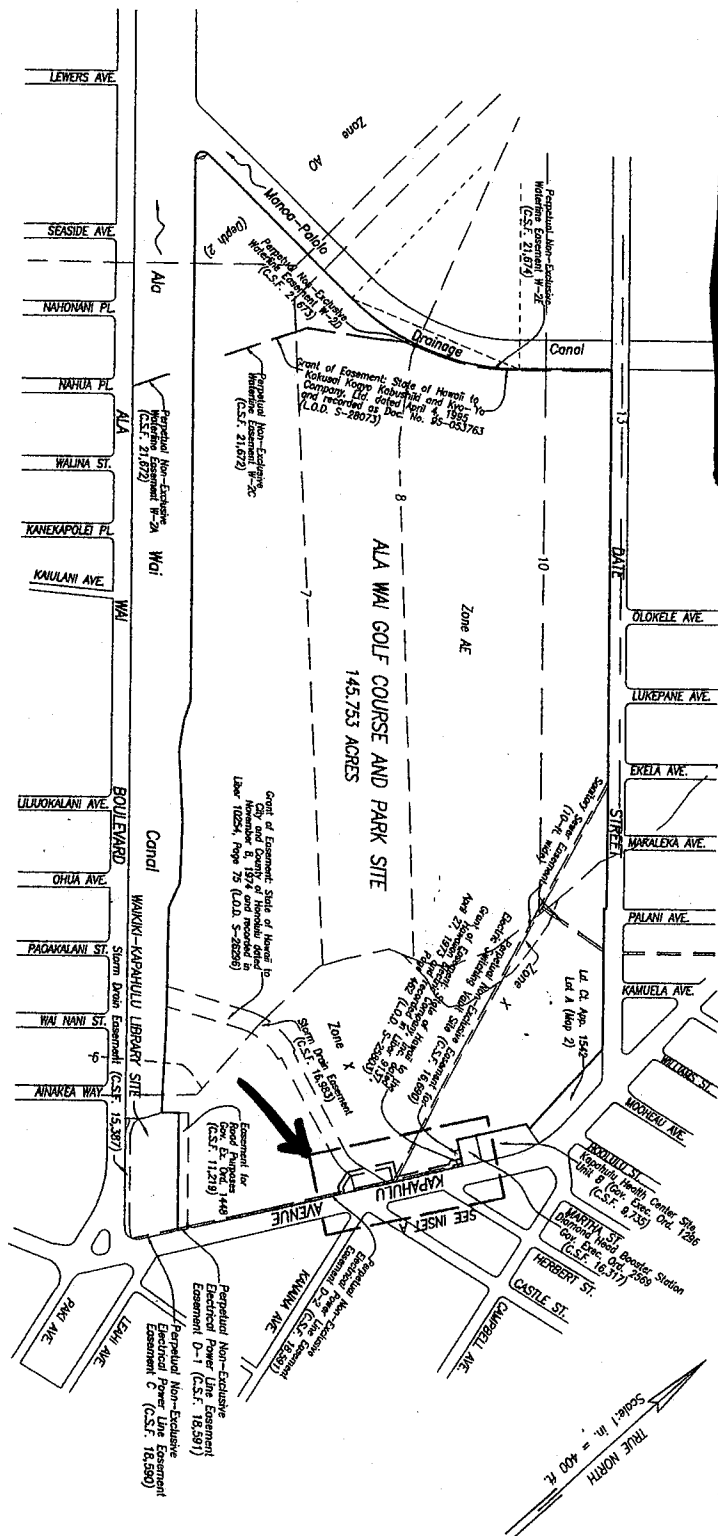
Al Jodar  
Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

0 70



2. This area is located within the Areas designated AO (depth 2), AE and X on the FIRMA

SURVEY MAP SHOWING  
DESIGNATION OF EASEMENT W-1  
FOR WATER LINE PURPOSES  
AFFECTING ALA WAI GOLF COURSE AND PARK SITE  
IN FAVOR OF BOARD OF WATER SUPPLY

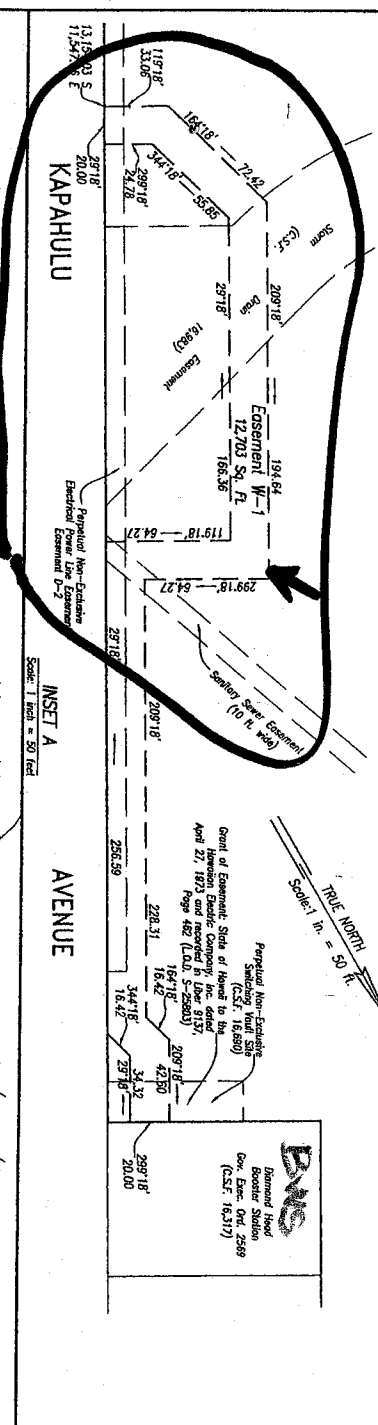
AT WAIKIKI, HONOLULU, OAHU, HAWAII

This work was prepared by me  
or under my direct supervision

By: Wilfred Y. T. Chui  
Licensed Professional Land Surveyor  
Certificate Number 3489-LS  
License Expire 4/04



**EXHIBIT "A"**



2004/50B-20

DEPARTMENT OF PLANNING AND PERMITTING  
City and County of Honolulu  
Date JAN 28 2005

Date JAN 20 2000

# BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU  
630 SOUTH BERETANIA STREET  
HONOLULU, HI 96843



January 25, 2007

MUFI HANNEMANN, Mayor

RANDALL Y. S. CHUNG, Chairman  
HERBERT S. K. KAOPUA, SR.  
SAMUEL T. HATA  
ALLY J. PARK  
ROBERT K. CUNDIFF

LAVERNE T. HIGA, Ex-Officio  
BARRY FUKUNAGA, Ex-Officio

CLIFFORD P. LUM  
Manager and Chief Engineer

Peter T. Young, Chairperson  
Department of Land and Natural Resources  
State of Hawaii  
P.O. Box 621  
Honolulu, Hawaii 96809

Attention: Ms. Charlene Unoki, Assistant Administrator  
Land Division

Dear Mr. Young:

Subject: Board of Water Supply Requests Approval for Installation of a 24-inch Water Pipeline  
Over Ala Wai Golf Course Along Kapahulu Avenue – TMK: 2-7-036:002

RECEIVED  
LAND DIVISION  
2007 JAN 29 A 9:11  
CITY AND COUNTY OF HONOLULU  
DEPARTMENT OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

The Board of Water Supply (BWS) requests a grant of easement for waterline purposes over easement W-1 of the subject property. The City and County of Honolulu holds title to the Ala Wai Golf Course property by Executive Order No. 1920; which is managed by its Department of Enterprise Services (DES).

3885

The enclosed easement map has been filed and approved by the City's Department of Planning and Permitting on January 28, 2005; and an Agreement by and between the DES and the BWS was executed on September 20, 2006, to set forth the terms and conditions of easement W-1.

Please note that easement W-1 also crosses Hawaiian Electric Company, Inc. (HECO) vault easement, which is adjacent to our Diamond Head Pump Station site. HECO comments in the attached letter that the BWS work will not interfere with their existing underground facilities.

The BWS requests your Board's concurrence of our proposal to finalize the easement requirements.

If there are any questions, please call Shirley Saffery, Land Agent, at 748-5913.

Very truly yours,

CLIFFORD P. LUM  
Manager and Chief Engineer

Enclosures

**EXHIBIT "B"**

April 28, 2003



Mr. Craig Kim  
Hawaii Pacific Engineers, Inc.  
1132 Bishop Street, Suite 1003  
Honolulu, Hawaii 96813-2830

Dear Mr. Kim:

**Re: BWS Diamond Head Water System Improvements  
HECO Work Order No: CE032519**

This is in response to your letter of transmittal dated April 10, 2003 regarding the subject project. We have reviewed your revised plan of waterline "C" in an attempt to identify any potential conflicts with HECO's existing facilities. Based on the layout of the realigned 24" water line, it appears that the work will not interfere with existing HECO underground facilities in the vicinity of the project, other than those already noted (crossing at HECO switch vault next to Diamond Head Booster Station) in our December 3, 2002 letter to your office.

It is also noted that the water line crosses into an electrical easement that is currently being negotiated with the State. Depending on the final outcome of the easement negotiations, the proposed water line may require an encroachment agreement between HECO and the BWS.

For your information, attached is a copy of our "as built" drawing #36801 showing additional underground electrical facilities in the area of the realigned water line. Please reference HECO drawing #8091, which was previously sent to your office, showing our underground electrical facilities in the area of the HECO switch vault.

Should it become necessary to relocate HECO's facilities, please submit a request in writing and we will work with you to relocate HECO's facilities so that construction on your project may proceed. Please note that there may be costs associated with any relocation work that may be borne by the requestor, and that any redesign or relocation of HECO's facilities may be cause for lengthy delays. In order to minimize any delay or impact on the project schedule, HECO shall be notified immediately upon determination that HECO's facilities will need to be relocated. HECO shall not be responsible for any delay or damage that may arise as a result of not being given sufficient notice and time to relocate its facilities.

Please show all affected HECO facilities on the construction plans and address any conflicts between the proposed plans and HECO's existing facilities. We request that you resubmit **two** (2) sets of plans for review.

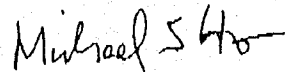
WINNER OF THE EDISON AWARD  
FOR DISTINGUISHED INDUSTRY LEADERSHIP



BWS Diamond Head Water System  
HECO Work Order No: CE032519  
April 28, 2003  
Page 2

In responding to this letter, please refer to the HECO work order number shown above. If there are any questions, please contact Isaac Lee at 543-7539.

Sincerely,



Michael Ho  
Lead Engineer  
Engineering Department

Attachment(s)

IL 



## AGREEMENT

THIS AGREEMENT, made by and between the DEPARTMENT OF ENTERPRISE SERVICES, City and County of Honolulu, hereinafter called "CITY" and the BOARD OF WATER SUPPLY, City and County of Honolulu, hereinafter called the "BOARD";

### WITNESSETH THAT:

1. It is hereby agreed between the CITY and the BOARD that a portion of that certain City-owned parcel, being the ALA WAI GOLF COURSE AND PARK site, situate at Waikiki, Honolulu, Oahu, Hawaii, bearing Tax Map Key 2-7-36: 02, 09 & 78, shall be designated as Easement W-1, for water pipeline purposes, as described in Exhibit "A" and shown on Exhibit "B," both attached hereto and made a part hereof, hereinafter known as the "easement area."
2. CITY shall permit the BOARD including its agents, assigns, employees and contractors, access to, along, under, over and across the easement area at all times.
3. The easement is for the installation, maintenance and repair of BOARD'S water lines and any necessary appurtenant installations or equipment.
4. BOARD shall not be obligated to relocate or adjust the grade of any pipelines, road or flowage improvements.
5. CITY shall not erect or place any building above or on the surface of the easement area.
6. CITY shall not plant large trees or any other plants within the easement area, nor make any other improvements, which will interfere with the BOARD'S operation or maintenance of the said pipelines and other necessary installations.
7. CITY and BOARD shall indemnify and hold harmless the other party from and against all claims and demands for personal injury and wrongful death arising out of or in connection with the use of or occupancy of its respective parcels.
8. Each party shall be responsible for its utility services and payments.
9. BOARD shall not sublet its premises without the approval of CITY.

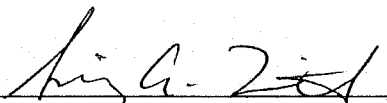


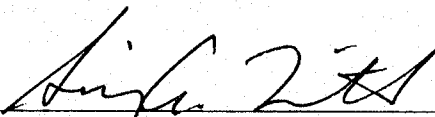
10. The term of this Agreement shall commence on the date of this Agreement and shall continue in perpetuity, or upon a 30-day, notification by the BOARD.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and executed this Agreement on this 20th day of September, 2006.

DEPARTMENT OF ENTERPRISE SERVICES  
City and County of Honolulu

APPROVED AS TO CONTENTS:


  
Department of Enterprise Services

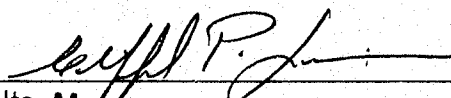
By   
Its Director

"CITY"

BOARD OF WATER SUPPLY  
City and County of Honolulu

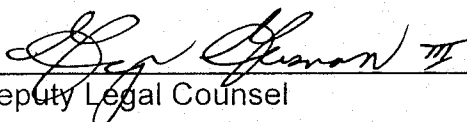
APPROVED AS TO CONTENTS:

  
Board of Water Supply

By   
Its Manager and Chief Engineer

"BOARD"

APPROVED AS TO FORM:

  
Deputy Legal Counsel



RECEIVED  
LAND DIVISION

2007 JAN 31 A 8:23

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

January 29, 2007

Mr. Al Jodar  
Land Agent  
Department of Land & Natural Resources  
P. O. Box 621  
Honolulu, HI 96809

HECO Approval of BWS Diamond Head Water System Improvements

Dear Mr. Jodar:

Pursuant to our conversation on January 29, 2007 in your office, we are writing regarding the Board of Water Supply's proposed Diamond Head Water System improvements in Hawaiian Electric Company's (HECO) switching vault easement on Kapahulu Avenue dated April 27, 1973, recorded in Liber 9137 at Page 462 and encumbering TMK 2-7-036:002. The Board has requested HECO comments on a proposed 24" waterline that would cross through HECO's easement. HECO has reviewed the Board's plans and has no objections to the installation provided it is done in accordance with HECO's letter to the Board's contractor, Jas. W. Glover, Ltd., dated January 15, 2007.

If you have any questions, or require additional information, you can reach me at 543-4735, or at [phil.hauret@heco.com](mailto:phil.hauret@heco.com). We appreciate your attention to this matter.

Sincerely yours,

Philip Hauret  
Senior Land Agent

**EXHIBIT "C"**